

House Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 108

# HOUSE BILL 2435

AN ACT

AMENDING SECTION 20-466, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT  
OF INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-466, Arizona Revised Statutes, is amended to  
3 read:

4 20-466. Fraud unit; peace officer status; powers; information  
5 sharing duty of insurers

6 A. A fraud unit is established in the department of insurance.

7 B. The fraud unit shall work in conjunction with the department of  
8 public safety.

9 C. The director may investigate any act or practice of fraud  
10 prohibited by section 20-466.01 and any other act or practice of fraud  
11 against an insurer or entity licensed under this title. The director shall  
12 administer the fraud unit.

13 D. The director may employ investigators for the fraud unit. A fraud  
14 unit investigator has and shall exercise the law enforcement powers of a  
15 peace officer of this state but only while acting in the course and scope of  
16 employment for the department. The director shall adopt guidelines for the  
17 conduct of investigations that are substantially similar to the investigative  
18 policy and procedural guidelines of the department of public safety for peace  
19 officers. Fraud unit investigators shall not preempt the authority and  
20 jurisdiction of other law enforcement agencies of this state or its political  
21 subdivisions. Fraud unit investigators:

22 1. Shall have at least the qualifications prescribed by the Arizona  
23 peace officer standards and training board pursuant to section 41-1822.

24 2. Are not eligible to participate in the public safety personnel  
25 retirement system established by title 38, chapter 5, article 4 due solely  
26 to employment as fraud unit investigators.

27 E. The director may request the submission of papers, documents,  
28 reports or other evidence relating to an investigation under this section.  
29 The director may issue subpoenas and take other actions pursuant to section  
30 20-160. The materials are privileged and confidential until the director  
31 completes the investigation. Any documents, materials or other information  
32 that is provided to the director pursuant to this section is not subject to  
33 discovery or subpoena until opened for public inspection by the director or,  
34 after notice and a hearing, a court determines that the director would not  
35 be unduly burdened by compliance with the subpoena. THE DIRECTOR SHALL KEEP  
36 THE IDENTITY OF AN INFORMANT CONFIDENTIAL, INCLUDING ANY INFORMATION THAT  
37 MIGHT IDENTIFY THE INFORMANT, UNLESS THE REQUEST FOR INFORMATION IS MADE BY  
38 A LAW ENFORCEMENT AGENCY, THE ATTORNEY GENERAL OR A COUNTY ATTORNEY FOR  
39 PURPOSES OF A CRIMINAL INVESTIGATION OR PROSECUTION. THE DIRECTOR SHALL  
40 NOTIFY AN INSURER OF ANY PUBLIC RECORD REQUEST OR SUBPOENA FOR DOCUMENTS,  
41 MATERIALS OR OTHER INFORMATION THE INSURER HAS REFERRED TO THE FRAUD UNIT FOR  
42 PURPOSES OF ASSERTING, IN A COURT OF COMPETENT JURISDICTION, ANY APPLICABLE  
43 PRIVILEGES UNDER THE CIRCUMSTANCES UNLESS THE SUBPOENA IS ISSUED BY THE  
44 ATTORNEY GENERAL OR A COUNTY ATTORNEY OR BY THE COURT AT THE REQUEST OF THE  
45 ATTORNEY GENERAL OR A COUNTY ATTORNEY. The director may use the documents,

1 materials or other information in the furtherance of any regulatory or legal  
2 action brought as a part of the director's official duties.

3 F. If the documents, materials or other information the director seeks  
4 to obtain by request is located outside this state, the person requested to  
5 provide the documents, materials or other information shall arrange for the  
6 fraud unit or a representative, including an official of the state in which  
7 the documents, materials or OTHER information is located, to examine the  
8 documents, materials or other information where it is located. The director  
9 may respond to similar requests from other states.

10 G. An insurer that believes a fraudulent claim has been or is being  
11 made shall send to the director, on a form prescribed by the director,  
12 information relative to the claim including the identity of parties claiming  
13 loss or damage as a result of an accident and any other information the fraud  
14 unit may require. The director shall review the report and determine if  
15 further investigation is necessary. If the director determines that further  
16 investigation is necessary, the director may conduct an independent  
17 investigation to determine if fraud, deceit or intentional misrepresentation  
18 in the submission of the claim exists. If the director is satisfied that  
19 fraud, deceit or intentional misrepresentation of any kind has been committed  
20 in the submission of a claim, the director may report the violations of the  
21 law to the reporting insurer, to the appropriate licensing agency as defined  
22 in section 20-466.04 and to the appropriate county attorney or the attorney  
23 general for prosecution.

24 H. The director may:

25 1. Share nonpublic documents, materials or other information with  
26 other state, federal and international regulatory agencies, with the national  
27 association of insurance commissioners and its affiliates and subsidiaries  
28 and with state, federal and international law enforcement authorities if the  
29 recipient agrees and warrants that it has the authority to maintain the  
30 confidentiality and privileged status of the documents, materials or other  
31 information.

32 2. Receive documents, materials and other information from the  
33 national association of insurance commissioners and its affiliates and  
34 subsidiaries and from regulatory and law enforcement officials of other  
35 jurisdictions and shall maintain as confidential or privileged any document,  
36 material or other information received with notice or the understanding that  
37 it is confidential or privileged under the laws of the jurisdiction that is  
38 the source of the document, material or other information.

39 3. Enter into agreements that govern the sharing and use of documents,  
40 materials and other information and that are consistent with this section.

41 I. A disclosure to or by the director pursuant to this section or as  
42 a result of sharing information pursuant to subsection G of this section is  
43 not a waiver of any applicable privilege or claim of confidentiality in the  
44 documents, materials or other information disclosed or shared.

1 J. The director shall annually assess each insurer as defined in  
2 section 20-441, subsection B authorized to transact business in this state  
3 up to seven hundred dollars for the administration and operation of the fraud  
4 unit and the prosecution of fraud pursuant to this section. Monies collected  
5 shall be deposited, pursuant to sections 35-146 and 35-147, in the state  
6 general fund. The director shall annually revise the fee in such a manner  
7 that the revenue derived from the fees equals at least ninety-five per cent  
8 but not more than one hundred ten per cent of the appropriated budget of the  
9 fraud unit for the prior fiscal year.

10 K. A person, or an officer, employee or agent of the person acting  
11 within the scope of employment or agency of that officer, employee or agent,  
12 who in good faith files a report or provides other information to the fraud  
13 unit pursuant to this section is not subject to civil or criminal liability  
14 for reporting that information to the fraud unit.


APPROVED BY THE GOVERNOR APRIL 30, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2002.

Passed the House April 2, 2002,

by the following vote: 54 Ayes,

1 Nays, 5 Not Voting


  
Speaker of the House


  
Chief Clerk of the House

Passed the Senate April 23, 2002,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

  
President of the Senate

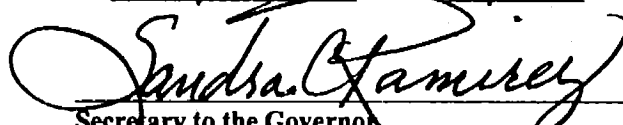
  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

24 day of April, 2002,

at 11:01 o'clock A M.

  
Secretary to the Governor

Approved this 30 day of

April, 2002

at 11:55 o'clock A M.

  
Governor of Arizona

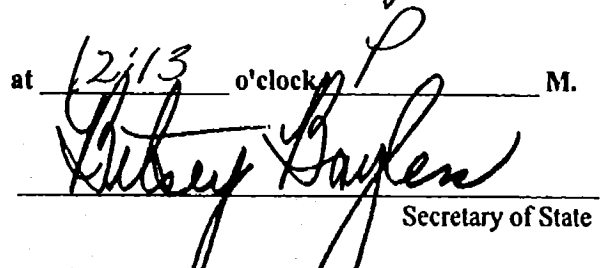
H.B. 2435

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 1 day of May, 2002,

at 12:13 o'clock P M.

  
Secretary of State